IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 4995 of 2005

Between:

A. Mallesham, S/o. Balaiah,
Sangareddy Depot, R/o. Sanga Reddy, Medak District.

..... PETITIONER

AND

1 The APSRTC, Rep. by its Regional Manager,
Medak Region at Medak.
2 The APSRTC, Rep. by its Depot Manager,
Sangareddy, Medak District.
3 The APSRTC, Rep. by its Depot Manager,
Zaheerabad, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents herein in imposing the punishment of deferment of annual increment for a period of 2 Years with cumulative effect without holding any departmental enquiry vide Proc.No. 02/104(7)/90-ZHB, Dt. 5-10-1990, as illegal, unjust, contrary to well established principles of law and as such liable to be set aside by further directing the respondents to refix the pay of the Petitioner by adding the differed increment w.e.f. 5-10-1990 and to pay the arrears forthwith and pass such other order or orders.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondent Nos.1 to 3: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following:

ORDER:

Declaring the action of the 3rd respondent in imposing major penalty vide proceedings No.02/104(7)/90-ZHB dated 05.10.1990, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for certain cash and ticket irregularities. He submitted his explanation. The 3rd respondent passed an order on 05.10.1990, without conducting any enquiry, by imposing a penalty of deferment of annual increment for a period of two years, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal to the appellate authority and the same was rejected. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of two years with cumulative

effect, imposed by the 3rd respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of two years without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this order, to which, he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

Dated: 14.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Regional Manager, APSRTC,

Medak Region, Medak

2. The Depot Manager, APSRTC,

Sangareddy, Medak District

3. The Depot Manager, APSRTC,

Zaheerabad, Medak District

4. Two CD copies

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